IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 2793 OF 1999

1. Organisation for Verdant Ambience & Land and 5 ors.] .. Petitioners

Versus

1. The State of Maharashtra & 5 ors.] .. Respondents

Mr. S.H. Doctor, senior counsel with Mr. M.S. Doctor i/b M/s. Kanga & Co. for the petitioners.

Mr. R.M. Sawant, Govt. Pleader for respondent No.1.

Mr. S.M. Gorwadkar for respondent No.2.

CORAM: R.M. LODHA &
A.S. BAGGA, JJ.

DATED: 28TH JUNE, 2006

P.C. :

. An Affidavit has been filed on behalf of the petitioners dated 21st June, 2006 setting out the breaches of the orders dated 20th April, 1995, 2nd May, 2000 and 18th October, 2000, by the respondent No.2. The said breaches are as follows:

> "(a) The Respondent No.2 has put up tents on the ground. The said tents remain permanently on the Oval Maidan and are not removed at night or even when cricket is not

being played. Various items such as chairs, tables, ropes, benches, cupboards, trunks etc. are stored on the Oval ground permanently.

(b) The Respondent No.2 still continues to have a landline telephone connection in the Oval Maidan. The Telephone No. is 22046447.

(c) Respondent No.2 has constructed a urinal on one side of the Oval Maidan.

(d) During the months when cricket is being played on the ground, the Respondent No.2 maintains a virtually permanent boundary rope encircling a large area (1/4th) of the Oval. The Respondent No.2 has appointed security guards to guard the entire area encircled by such boundary rope. Members of the general public are prevented and/or obstructed from using the portion of the Oval even when there are no matches being played.

(e) The Respondent No.2 collects donations from prospective students of the academy and from organizations which play friendly cricket matches on the pitch maintained by him and also by putting up the logo/advertisement of ELF on the sight screens and elsewhere.

(f) Respondent No.2 puts two huge sight screens on either side of the portion of the ground occupied by him. These screens remain on the ground permanently and exhibit the name/logo/advertisement of the sponsor of the academy of Respondent No.2. All the equipment used by Respondent No.2, such as rollers, uniforms worn by staff etc. exhibit the name/logo/advertisement of the sponsor."

2. Mr. S.M. Gorwadkar, the counsel for

respondent No.2 agreed that so long as the terms set out in the minutes of the order dated 20th April, 1995 are not modified, the respondent No.2 has to abide by those terms. He submitted that the tents that are put up by the respondent No.2 on the ground are collapsible and that in the evening time they are kept on the ground. We are afraid, in terms of the minutes of the order dated 20th April, 1995, no storage of any material on the ground or on any part of the cricket pitch during the night except the nets and rollers, is permissible. The respondent No.2 has to remove the tent/s and all other material like chairs, tables, benches, cupboards, trunks etc. from the ground in the night or when cricket is not being played. We accordingly direct that the respondent No.2 shall not keep any material including the tents, chairs, tables, benches, cupboards, trunks etc. on the ground in the night. The nets and rollers may, however, remain on the pitch as already ordered.

3. Mr. S.M. Gorwadkar, the counsel for the respondent No.2 submits that the landline telephone connection shall be removed within one week from today. We accept his statement.

4. Though the counsel for the respondent No.2

submitted that the urinal has been put up on one side of the Oval Maidan and that the said facility is essential, in our view, on the face of the order dated 20th April, 1995, this is not permissible and urinal has to be removed. We accordingly direct the respondent No.2 to remove the urinal within two weeks from today.

5. We record and accept the statement of Mr. S.M. Gorwadkar, the counsel for respondent No.2 that boundary rope is only put up at the time of play and that as soon as playtime is over, the boundary rope is removed.

6. That there is advertisement of ELF on the sight screens shows that there has been commercial exploitation on the part of the Trust (respondent No.2) in breach of the order dated 20th April, 1995. The counsel for respondent No.2 submits that the advertisement of ELF on the sight screens shall be removed within two weeks from today. He also submits that henceforth the sight screens shall be removed at night and shall not be kept on the ground. We accept the statement of the counsel for respondent No.2.

7. We observe that it is the responsibility of respondent No.2 to ensure compliance of the terms of the

minutes of order dated 20th April, 1995. If the breaches continue, the Court may be constrained to disentitle the respondent-Trust from the user of the pitch area admeasuring 30 X 40 yards.

8. This order is without prejudice to the application made by the respondent No.2 on 19th January, 2000. The said application shall be considered on its own merits uninfluenced by the present order.

9. Order accordingly.

Sd/-
[R.M. LODHA, J.]

Sd/-
[A.S. BAGGA, J.]